Court overrules the doctrine of *Stanford* v. *McGill,* supra, and thus lines North Dakota up with the overwhelming weight of authority recognizing this last-mentioned doctrine. Before this decision Nebraska, North Dakota, and Massachusetts were the only states rejecting this doctrine of anticipatory breach. *Carstens* v. *McDonald,* 38 Neb. 858, 57 N. W. 757; *King* v. *Waterman,* 55 Neb. 324, 75 N. W. 830; *Daniels* v. *Newton,* 114 Mass. 530, 19 Am. Rep. 384. See 8 MICH. LAW REV. 254. Although *Daniels* v. *Newton* is as yet undisturbed law in Massachusetts, having been cited with approval so late as *Blount* v. *Wheeler,* 199 Mass. 333, yet even in that state the doctrine of *Daniels* v. *Newton* has been limited to executory contracts of sale, and has not been followed to its logical conclusion. See note to *O'Neill* v. *Supreme Council American Legion of Honor* in 1 Ann. Cas. 422. So this withdrawal of North Dakota from the support of those states rejecting the doctrine of anticipatory breach seems to foreshadow the approach of the universal acceptance of this doctrine.

CORPORATIONS—POWER OF STATE TO CREATE.—Complainant brought a suit in equity, requesting that the single tax corporation, of which he was a member, be dissolved. He alleged that it never had any legal existence, and that it would eventually fail in its attempt to demonstrate the "beneficiency, utility and practicability" of the single tax theory. *Held,* that, in so far as the statutes regulating taxation were concerned, the act pursuant to which the corporation was created was constitutional, and that complainant's bill stated no cause of action. *Fairhope Single Tax Co.* v. *Melville* (Ala. 1915), 69 So. 466.

It is an established principle of corporation law that all corporations may exercise and enjoy not only the powers, privileges and rights expressly granted, but also such powers, privileges and rights as are impliedly essential and incidental to their corporate existence. *La. State Bank* v. *Orleans Navigation Co.,* 3 La. Ann. 294; *Bank of Kentucky* v. *Schuylkill Bank,* 1 Pars. Eq. Cas. (Pa.) 180; *Gainer* v. *Coates,* 51 Miss. 335; *City Council of Montgomery* v. *Montgomery & W. Plank Road Co.,* 31 Ala. 76; *Ginrich* v. *Patrons' Mill Co.,* 21 Kan. 61. Through the exercise of these incidental and essential powers, the corporation whose dissolution was sought in the principal case, was permitted indirectly to assail the fundamental rules of taxation in force in the state. It is true, as was said in *Reeves* v. *Corning,* 51 Fed. 774, that "a court has no power to adjudge a duly-enacted statute unconstitutional simply because it may seem to the court that such legislation does not conform to the theory upon which the government is founded." This is certainly an indisputable rule of constitutional law, but many courts, recognizing the importance of the fact that a corporation owes its existence and looks for its protection to the state, do not deem it applicable to cases which are properly governed by sound principles of public policy. *The Detroit Schuetzen Bund* v. *Detroit Agitation Verein,* 44 Mich. 313; *In Re Charter of First Church of Christ, Scientist,* 205 Phil. (Pa.) 543; *In Re Charter of the Rev. David Mulholland Benevolent Soc.,* 10 Phil. (Pa.) 19. Judge FINCH, speaking for the court, in *The People* v. *The North River*

*Sugar Refining Co.*, 121 N. Y. 582, 18 Am. St. Rep. 843, 32 Amer. & Eng. Corp. Cas. 149, 24 N. E. Rep. 834, suggested what seems to be a safe rule for the guidance of the courts, when he said: "What the state may bear is one thing, what it should cause and create is quite another."

CORPORATIONS—REPURCHASE OF STOCK.—A solvent mercantile corporation borrowed money from complainant bank. Unknown to the bank, the money was used to repurchase the shares of twenty-six dissatisfied stockholders. Later the company became insolvent, whereupon the bank brought suit against the twenty-six stockholders. *Held,* upon demurrer to the bill for multifariousness and misjoinder of parties, that the stockholders were properly joined as parties defendant, and bound as such to account for the money as trustees. *First National Bank of Laurel* v. *Pearson et al.* (Miss. 1915), 68 So. 921.

The weight of authority in the United States is to the effect that a corporation may, when no creditors' rights intervene and no statute expressly or impliedly restrains it, purchase its own stock. *Vent* v. *Duluth Coffee & Spice Co.*, 64 Minn. 307; *Clapp et al.* v. *Peterson,* 104 Ill. 26; *Farmers & Mechanics Bank* v. *Champlain Transportation Co.*, 18 Vt. 131; *Iowa Lumber Co.* v. *Foster,* 49 Iowa 25. A few courts hold that such a purchase, not being necessarily incident to the carrying on of the corporate business, is ultra vires. *Coppin* v. *Greenlecs & Ransom Co.*, 38 Oh. St. 275; *Currier* v. *Lebanon Slate Co.*, 56 N. H. 262; *Salem Mill Dam Corporation* v. *Ropes,* 6 Pick. (Mass.) 23. A third class of decisions, based, to all intents and purposes, upon the doctrine of ultra vires, sanctions such a purchase, when, and only when, the corporation so purchasing is expressly authorized to do so by statute or charter. *Hope* v. *International Financial Society,* 35 L. T. (Eng.) 623; *Ables* v. *Cockran, 22* Kan. 405; *Barton* v. *Port Jackson,* 17 Barb. (N. Y.) 397; 7 ENG. & AMER. ENCY. OF LAW, 818. In every jurisdiction the rights of corporate creditors and minority shareholders are jealously guarded; but the courts do not, in their endeavor to shield them from injury, lose sight of the fact that innocent third parties are entitled to an equal amount of consideration. Stockholders who sold their shares when the corporation was financially sound are protected by the application of familiar equitable principles to the facts of each case. Only those stockholders who dispose of their shares at a time when the corporation is actually insolvent, or on the verge of insolvency, are liable as trustees. The decision in the principal case is clearly in accord with this doctrine, the evidence disclosing that the corporation was only nicely started in business and that the twenty-six surrendered shares represented more than one-half of the capital stock of the company. See *Matter of the Fecheimer-Fishel Co.,* discussed in 14 COLUM. LAW REV. 451, for a contrary and anomalous decision.

DAMAGES—SPECULATIVE PROFITS LOST BY DELAY IN TRANSPORTATION.—In an action against a carrier for delay in transportation of plaintiff's carnival outfit and troupe, where the carrier had notice of the character of the goods and the purpose for which the troupe and outfit were being carried, *Held,*